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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,648	04/01/2004	Yoshiaki Shimizu	Q80869	5902

23373 7590 07/06/2006

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EXAMINER
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MRUK, GEOFFREY S

ART UNIT	PAPER NUMBER
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2853

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/814,648

Applicant(s)

SHIMIZU ET AL.

Examiner

Geoffrey Mruk

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/1/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

Claims 10-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 16 June 2006.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

Figures 15, 16, and 17 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Uchida (US 5,486,854).

With respect to claim 1, Uchida discloses a liquid ejecting apparatus (Fig. 1), comprising:

- a liquid ejecting head (Fig. 2) having nozzle openings (Fig. 2, element 52) for ejecting liquid drops;
- capping means (Fig. 6, element 2) for sealing a nozzle forming face (Fig. 6, element 51) of said liquid ejecting head to form a closed space (Column 7, lines 11-24);
- a tube pump (Fig. 6, element 4) for discharging a fluid in said capping means sealing said nozzle forming face, said tube pump having a flexible tube member (Fig. 6, element 3) having a curved part (Fig. 6, element 3, i.e. profile of element 3 in contact with element 6) and a roller member (Fig. 6, element 7) rolling on an inner periphery of said curved part while pressing and deforming said tube member (Column 9, lines 6-17), wherein there exists a leak point (Fig. 6, i.e. between elements 65 and 66) opposite where a pressing deformation amount of

said curved part by said roller member becomes insufficient (Column 9, lines 17-23);

- phase detection means (Fig. 6, elements 67, 68; Column 9, lines 24-31) for detecting a phase of a rotational motion of said roller member along said inner periphery of said curved part; and
- control means for controlling an operation of said tube pump, said control means having a function for stopping said roller member at a predetermined position based on an information on said phase of said rotational motion of said roller member detected by said phase detection means (Column 8, line 36, i.e. driving power source).

With respect to claim 2, Uchida discloses said predetermined position is a position other than said leak point (Column 9, lines 32-36).

With respect to claim 3, Uchida discloses said predetermined position is a position of said curved part opposite to said leak point (Fig. 3, i.e. position X to Y).

With respect to claim 4, Uchida discloses said control means has a function for stopping said roller member at said predetermined position when stopping said tube pump at an end of a suction operation (Column 10, lines 13-31).

With respect to claim 5, Uchida discloses said tube pump is structured so as to release (Fig. 14, element k) said pressing state of said roller member (Fig. 14, element 7) to said tube member by inversely rotating said roller member, and said control means has a function for stopping said roller member at an end of a suction operation and then

inversely rotating said roller member to stop at said predetermined position (Column 12, lines 21-37).

With respect to claim 6, Uchida discloses said curved part of said tube member is in a circular ring shape (Fig. 6, element 3, i.e. profile of element 3 in contact with element 6).

With respect to claim 7, Uchida discloses said phase detection means (Fig. 6, elements 67, 68) has a rotator (Fig. 6, element 6) rotating in synchronization with said rotational motion of said roller member (Fig. 6, element 7) and a detector for detecting a phase of a rotational motion of said rotator (Column 9, lines 24-31).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida (US 5,486,854) in view of Sugiyama et al. (US 6,291,815 B1).

With respect to claims 8 and 9, Uchida discloses a phase detection means (Fig. 6, elements 67, 68) for detecting a phase of a rotational motion of said rotator (Fig. 6, element 6; Column 9, lines 24-31).

However, Uchida fails to disclose:

- said rotator has a notch and said detector detects said phase of said rotational motion of said rotator based on a change in a detection signal at said notch and
- said detector has a light emitter for radiating light toward said rotator and a light receiver for receiving light radiated from said light emitter.

Sugiyama discloses a device for measuring rotation angle of a rotary element where "A set of a light emitter 20 and an light receiver 22 forming a first photo sensor SSC are provided adjacent to a radial region of the shutter disk to oppose the first array 14 of the notches 12. The light emitter 20 may be made of a light emitting diode adapted to emit a light beam toward the light receiver 22 which may be made of a photo transistor. Similarly a second set of a light emitter 24 and a light receiver 26 forming a second photo sensor SS1 are provided adjacent to a radial region of the shutter disk to oppose the second array 18 of the openings 16" (Column 5, lines 6-15).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to use the device for measuring rotation angle of a rotary element disclosed by Sugiyama as the tube pump sensor disclosed by Uchida. The motivation for doing so would have been "to provide an improved device for measuring a rotation angle of a rotary element so as to be able to detect an error in the measurement almost immediately upon the occurrence thereof" (Column 1, lines 63-67).

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey Mruk whose telephone number is 571 272-2810. The examiner can normally be reached on 7am - 330pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on 571 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GSM  
6/27/2006

GM

 6/30/06  
MANISH S. SHAH  
PRIMARY EXAMINER